



PLANNING SYSTEM

Act and Regulation changes

Circular	PS 06–011
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Related	PS05–003, PS05–004

Changes to the public notice requirements for planning agreements

This circular provides advice on a change to the requirements for public notification of proposed planning agreements under the Environmental Planning and Assessment Regulation 2000.

Introduction

On 13 April 2006 the Environmental Planning and Assessment Amendment (Major Projects) Regulation 2006 (the Amending Regulation) was gazetted.

The Amending Regulation, among other matters, changes the public notification requirements for planning agreements under the Environmental Planning and Assessment Regulation 2000 (the EP&A Regulation). This circular provides advice on the implications of these changes.

The Amending Regulation also makes minor changes to the assessment of major projects under Part 3A of the *Environmental Planning and Assessment Act 1979* (the Act) (refer to circular PS 06–010).

What are planning agreements?

Section 93F of the Act provides that a planning agreement is a voluntary agreement or other arrangement between a planning authority (or two or more planning authorities) and a person (the developer):

- (a) who has sought a change to an environmental planning instrument, or
- (b) who has made, or proposes to make, a development application, or
- (c) who has entered into an agreement with, or is otherwise associated with, a person to whom paragraph (a) or (b) applies,

under which the developer is required to dedicate land free of cost, pay a monetary contribution, or provide any other material public benefit, or any combination of them, to be used for or applied towards a public purpose.

What are the previous requirements for public notice of planning agreements?

The EP&A Regulation sets out requirements for public notice of planning agreements. Before the Amending Regulation commenced, these requirements included that public notice of a proposed planning agreement (or an amendment or revocation of an agreement) that relates to a change to a local environmental plan (LEP), should be given as part of, at the same time and in the same manner as any public notice of the draft LEP that is required under section 66 of the EP&A Act.

What are the new requirements for public notice of planning agreements?

The Amending Regulation has changed clause 25D of the EP&A Regulation to provide that public notice of a proposed planning agreement (or an amendment or revocation of an agreement) that relates to a proposed change to a LEP should be given:

- if practicable, as part of, at the same time and in the same manner as any public notice of the relevant draft LEP, or
- if it is not practicable to give notice at the same time, as soon as possible after, and in the same manner as, any public notice of the relevant draft LEP.

This amendment has been made to accommodate the long lead times that can be experienced in the preparation of LEPs. In practice, these lead times can make it difficult to exhibit a proposal to enter in a planning agreement at the same time as the draft LEP because such proposals are sometimes

made after the draft LEP is exhibited. The amendment to clause 25D of the EP&A Regulation will rectify this anomaly.

No changes have been made to the public notification requirements for proposed planning agreements that relate to development applications.

Further information

Both the Environmental Planning and Assessment Amendment (Major Projects) Regulation 2006 (as made) and the consolidated Environmental Planning and Assessment Regulation 2000 are available on the NSW Parliamentary Counsel's office website at: www.legislation.nsw.gov.au (see 'As made' and 'Browse A to Z in force').

Authorised by:

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Important note

This circular does not constitute legal advice. Users are advised to seek professional advice and refer to the relevant legislation, as necessary, before taking action in relation to any matters covered by this circular.

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